



**DECISION AND STATEMENT OF REASONS OF JOAN DEVINE, LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules")**

**in connection with**

**96 Ash Road, Abronhill, Cumbernauld G67 3DY ("the Property")**

**Case Reference: FTS/HPC/CV/25/4020**

**Stephen Burns, 5 Grahmashill Terrace, Fankerton FK6 5HX ("the Applicant")**

1. The Applicant lodged form F under rule 70 (application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) dated 15 September 2025. In the application the Applicant sought a payment order for £483.58 in respect of rent arrears.
2. On 23 October 2025 the Tribunal emailed the Applicant noting that there was no record of the property or the landlord on the landlord registration register and that title to the property was held by someone other than the Applicant. The Tribunal requested a copy of the tenancy agreement, a statement of rent arrears and copies of any rent increase notices. No response was received. The Tribunal again sought this information on 9 December 2025 and 2 February 2026. No response was received.

**DECISION**

3. The Legal Member considered the Application in terms of Rule 8 of the Chamber Procedural Rules. That Rule provides:-  
Rejection of application

**8.—(1)** The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if—

(a) they consider that the application is frivolous or vexatious;

(b) the dispute to which the application relates has been resolved;

(c) they have good reason to believe that it would not be appropriate to accept the application;

(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision.

**4. After consideration of the Application and documents lodged in support of same the Legal Member considers that the Application should be rejected on the basis that it is frivolous within the meaning of Rule 8(1)(a) of the Procedural Rules.**

**Reasons for Decision**

5. 'Frivolous' in the context of legal proceedings is defined by Lord Justice Bingham in *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env LR9. He indicated at page 16 of the judgment; "What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic". It is that definition which the Legal Member has considered as the test in this application, and on consideration of this test, the Legal Member considers that this application is frivolous, misconceived and has no prospect of success.

6. The Applicant sought an order under rule 70 for a payment order in respect of rent

arrears. The Applicant did not provide a copy tenancy agreement or statement of rent arrears. The Applicant did not demonstrate that they held title to the property and were therefore in a position to grant a tenancy of the property. In all the circumstances, the Legal Member determines that the Application is frivolous, misconceived and has no prospect of success. The Application is rejected on that basis.

### **What you should do now**

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.



**Joan Devine**

Joan Devine  
Legal Member

10 March 2026